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EXAMINER

MCPARTLIN, SARAH BURNHAM

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3636

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/549,985	Applicant(s) FISCHER ET AL.	
	Examiner Sarah B. McPartlin	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 states that the actuating element is in the unlocked state defines the holding element in the locked state. This is not clear. How can the actuating element define two different elements? Clarification is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-21 and 23-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Baumann et al. (6,688,697). With respect to claim 1, Baumann et al discloses a headrest arrangement (Figure 2a) for a motor vehicle seat with a backrest frame for a backrest (un-illustrated), a headrest, including a headrest body (12) and a support arm

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(unlabeled) in the form of a triangular planar member extending from a rear face of the body (12), that is fixable in at least one useful position (Figure 1) on the backrest frame wherein the headrest body (12) is for supporting a head of a vehicle occupant, a displacement device (4)(5) to shift the headrest in a crash situation in order to move the headrest body (12) relative to the backrest frame into a predetermined position (Figure 2c) which is different from the useful position (2a), a locking device (9)(14)(15) which counteracts displacement of the headrest by the displacement device (4)(5) and which is releasable in a crash situation, and a control device (7) to keep the locking device (9)(14)(15) in an unlocked state so long as the head rest is shifted out from the useful position (Figure 2a).

With respect to claim 2, the locking device (9)(14)(15) is pretensioned by at least one first elastic element (9S) in a direction of a locked state (Figure 2a).

With respect to claim 3, the locking device (9)(14)(15) is assigned at least a second elastic element (16) with which the locking device is biased in a direction of the unlocked state (given that locking device component (15) is mounted on pawl (14) which is biased upward away from locking device component (9) by elastic element (16)).

With respect to claim 4, the head rest is locked in the at least one useful position under the action of the first elastic element (9c) against the action of the second elastic element (16).

With respect to claim 5, the locking device (9)(14)(15) is movable in a released state (Figure 2c) by the second elastic element (16).

With respect to claim 6, the control device (7) includes at least one stop (18) wherein when the locking device is unlocked the stop (18) acts on a component part (17) of the locking device (9)(14)(15) so that the locking device is held in a state defined by the interaction of the stop (18) with the component part (17).

With respect to claim 7, the stop (18) is formed by an engagement element (in the form of a tooth) which is movable into engagement with the component part (17) of the locking device.

With respect to claim 8, during displacement of the head rest, the stop (18) is movable into a position in which it acts on the component part (17) of the locking device.

With respect to claim 9, the stop (18) is movable by swivel movement about pivot (6) into the position where it acts on the component part (17) of the locking device.

With respect to claim 10, when the locking device is locked (Figure 2a), the stop (18) is held in a position in which it does not act on the locking device (9)(14)(15), and that when the head rest is displaced (Figure 2c) the stop (18) is released to act on the locking device (9)(14)(15) at component part (17).

With respect to claim 11, further comprising a securing element (unlabeled), in the form of a protrusion extending from control device (14) and around which a lower end of elastic means (16) is wrapped, which is moveable (i.e. with the control device (14)) when the head rest is displaced and which releases the stop (17) when the head rest is displaced.

With respect to claim 12, the stop (18) is pretensioned (i.e. by the unlabeled elastic means best seen in Figures 2b and 2c) to a position where it acts on the locking device (9)(14)(15).

With respect to claim 13, when the head rest is displaced, the component part (17) of the locking device is brought into a position where the engagement element (18) is engageable in the component part (17).

With respect to claim 14, wherein the component part (17) of the locking device during displacement of the headrest is movable by an actuating element (11) which is movable during displacement of the head rest into the position when the engagement element (18) is engageable in the component part (17).

With respect to claim 15, the locking device is mounted on the backrest frame given that head rest arrangement is mounted on a seat back.

With respect to claim 16, the locking device (9)(14)(15) has a primary locking element (9) which in a locked state (Figure 2a) of the locking device interacts with a holding element (15) of the head rest so that the head rest is not able to move and which primary locking element (9) is moveable by actuation impart by actuating element (11) so that it releases the holding element (15).

With respect to claim 17, wherein the holding element (15) during displacement of the head rest is movable relative to the primary locking element (9) after the primary locking element (9) has been actuated to release the holding element (15).

With respect to claim 18, wherein the primary locking element (9) has a holding claw (unlabeled), in the form of a hook portion, which in the locked state of the locking device engages over the holding element (15) (see Figure 1).

With respect to claim 19, the primary locking element (9) is formed by a swivel mounted (at swivel point (8)) locking pawl.

With respect to claim 20, the primary locking element (9) is pretensioned by an elastic element (16) in a direction of the unlocked state, given that elastic means (16) is pulling holding element (15) out of engagement with primary locking element (9).

With respect to claim 21, at least one stop (18) is provided which when the locking device is unlocked acts on a component part (17) of the locking device so that the locking device is held in a state defined by the interaction of the stop (18) with the component part (17), wherein the stop (18) is formed by an engagement element, in the form of a tooth, which is movable into engagement with the component part (17) of the locking device, wherein when the head rest is displaced the component part (17) of the adjusting device is brought into a position where the engagement element (18) is engageable in the component part (17), wherein the component part (17) of the locking device during displacement of the headrest is moveable by an actuating element (11) which is movable during displacement of the head rest into the position where the engagement element (18) is engageable in the component part (17), and wherein the component part (17) of the locking device is brought through action of the actuating element (11) on the primary locking element (9) into a position in which the engagement element (18) is engageable in the component part (17).

With respect to claim 23, a secondary locking element (14) with which the primary locking element (9) is engageable in a position in which the locking device is locked and which is movable by actuation to unlock the locking device so that it releases the primary locking element.

With respect to claim 24, wherein the secondary locking element (14) is formed by a locking lever.

With respect to claim 25, the secondary locking element (14) is elastically pretensioned in a direction of a state in which it holds the primary locking element (9) in a position in which the locking device is locked.

With respect to claim 26, wherein an elastic pretension of the primary locking element (9), exerted by spring (9c) on one side and of the secondary locking element (14), exerted by spring (16) on the other, are attuned with each other so that the secondary locking element (14) holds the primary locking element (9), by way of holding element (15), in a position which corresponds to the locked state when the secondary locking element (14) has not been actuated to release the locking device.

With respect to claim 27, at least one stop (18) is provided which when the locking device is unlocked acts on a component part (17) of the locking device so that the locking device is held in a state defined by the interaction of the stop (18) with the component part (17) and wherein the component part (17) of the locking device is formed through the secondary locking element (14).

With respect to claim 28, the stop (18) acts on the secondary locking element (14).

With respect to claim 29, an unlocking mechanism (11) is provided to unlock the locking device in a crash situation in order to allow displacement of the headrest.

With respect to claim 30, the unlocking mechanism (11) is controllable by a sensor or “an electric pulse of a sensing means” (column 5, lines 15-16).

With respect to claim 31, the unlocking means (11) is controllable electrically.

With respect to claim 32, the unlocking mechanism (11) is controllable by an electromagnet (column 5, line 6).

With respect to claim 33, the unlocking mechanism has for acting on the locking device a tension or push means, in the form of a magnet, which is coupled to the locking device. A magnet pushes or repels element (9) of the locking device to cause a release.

With respect to claim 34, an unlocking mechanism (11) to unlock the locking device in a crash situation in order to allow displacement of the headrest wherein the unlocking mechanism is coupled to the secondary locking element (14) is provided.

With respect to claim 35, the control device (14) to keep the locking device in the unlocked state is deactivated by moving the headrest back from a displaced position (Figure 2c) to its useful position (Figure 2a).

With respect to claim 36, the control device (14) to keep the locking device in the unlocked state is deactivated automatically as the head rest moves back into its useful position given the angle of the engagement element (18).

With respect to claim 37, at least one stop (18) is provided which when the locking device is unlocked acts on a component part (17) of the locking device so that

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the locking device is held in a state defined by the interaction of the stop (18) with the component part (17), further comprising a securing element (15), which is moveable when the head rest is displaced and which releases the stop (18) when the head rest is displaced, wherein the deactivation is implemented through action of the securing element on the locking device.

With respect to claim 38, the stop (18) is formed by an engagement element which is moveable into engagement with the component part (17) of the locking device, wherein when the head rest is displaced the component part (17) of the locking device is brought into a position where the engagement element (18) is engageable in the component part (17), wherein the component part (17) of the locking device during displacement of the head rest is movable by an actuating element (unlabeled), in the form of an unlabeled spring and push portion extending outside the base (2) of the headrest, shown in Figure 1, which is moveable during displacement of the head rest into the position where the engagement element (18) is engageable in the component part (17), and wherein the actuating element acts on the locking device so that the engagement element (18) is brought out of engagement with the component part (17) of the locking device.

With respect to claim 39, the locking device is pretensioned by at least one first elastic element (16) in a direction of a locked state and wherein the action of the securing element (15) on the engagement element (18) brings the locking device into the locked state under the pretension of the first elastic element (16).

Allowable Subject Matter

5. Claim 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Amendment/Arguments

6. The amendment filed on February 19, 2008 has been considered in its entirety.

The Examiner has presented a new interpretation of the Baumann et al. reference above. The Examiner will address Applicant's arguments that still seem pertinent in light of the new interpretation of the reference set forth above. In light of this new interpretation of the reference, this action is made NON-FINAL.

Applicant argues that Baumann et al. does not teach or suggest a control device to keep the locking device in an unlocked state so long as the headrest is shifted from the useful position. Figure 1 shows the locking device (9)(14)(15) in a locked configuration. The headrest is locked against displacement because of the interaction between pin (15), carried by secondary locking element (14), and hook (9). Upon release of portion (9) of locking device (9)(14)(15) the headrest is displaced outward. The headrest remains in this displaced position, and hook (9) and pin (15) of locking device (9)(14)(15) remain disengaged, or unlocked, until control (7) is released and the headrest is pushed back to its original position. The engagement and disengagement of hook portion (9) and pin (15) indicate the locked position and unlocked position of the

locking device (9)(14)(15). The headrest is held in the unlocked/disengaged position as shown in Figure 2c until the control (7) is released and the headrest is pushed back in.

The Examiner contends that elements (9)(14) and (15) all constitute portions of the locking device. The Examiner contends that each portion, (9), (14) and (15) of the locking device (9)(14)(15) help counteract displacement of the headrest. The engagement of pin (15) and hook (9) counteracts the force of displacement means (16), keeping the headrest in the position indicated in Figure 1. Upon release of hook portion (9) of locking element (9)(14)(15), teeth located along the end of element (7) begin to drag along teeth (17) located along the end of control (14). This frictional interaction counteracts the displacement of the headrest. Therefore, the Examiner contends that elements (9), (14) and (15) all work together to counteract the displacement of the headrest. Furthermore, the locking device does not return to its locked position, as indicated in Figure 1, until the headrest is pushed inward and hook portion (9) and pin portion (15) engage.

Element (7) constitutes a control device. It affects the locking device in that it holds a portion of the locking device in the released position as seen in Figure 2c.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/
Primary Examiner
Art Unit 3636

SBM
May 6, 2008